

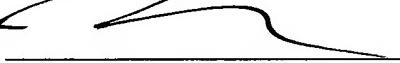
REMARKS

This response is submitted in response to the Office Action mailed on August 26, 2005. The Office Action rejects Claims 1-5, and 8-11 under 35 U.S.C. § 101 as claiming the same invention as that of Claims 1-11 in the co-pending application Serial No.: 10/719,254. This is a provisional-type double patenting rejection. In addition, Claims 2 and 13 stand rejected under the judicially-created doctrine of obviousness-type double patenting in view of U.S. Serial No.: 10/719,254. Applicants note that this is the only rejection or objection to the claims.

In response, Applicants are filing an Express Notice of Abandonment in U.S. Serial No.: 10/719,254. A copy of the Notice is enclosed herewith. Accordingly, this renders moot the double patenting rejections. Therefore, Applicants respectfully submit that the above-identified patent application is now in a condition for allowance and respectfully requests that it be passed to allowance.

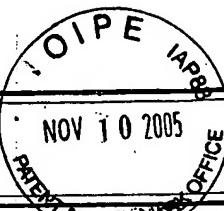
Respectfully submitted,

BELL, BOYD & HOYD LLC

BY 

Robert M. Barrett  
Reg. No. 30,142  
Customer No.: 29157

Dated: November 8, 2005



**TRANSMITTAL LETTER  
(General - Patent Pending)**

Docket No.  
112701-449

In Re Application Of: Thiele et al.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/719,254	November 20, 2003	Unknown	29157	3653	2806

Title: DESTACKING DEVICE FOR ICE-CREAM CONES

**COMMISSIONER FOR PATENTS:**

Transmitted herewith is:

Express Abandonment Under 37 CFR 1.138 (1 page) (duplicate); and  
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in the above identified application.

- No additional fee is required.
- A check in the amount of \_\_\_\_\_ is attached.
- The Director is hereby authorized to charge and credit Deposit Account No. 02-1818  
as described below.
- Charge the amount of \_\_\_\_\_
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- Charge any additional fee required.
- Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

  
Signature

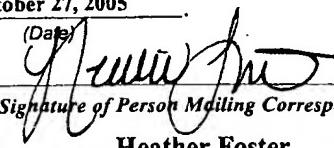
Dated: October 27, 2005

Robert M. Barrett (30,142)  
Customer No.: 29157

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on

October 27, 2005

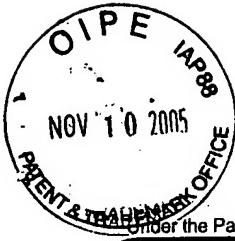
(Date)

  
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Heather Foster

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## EXPRESS ABANDONMENT UNDER 37 CFR 1.138

Fax directly to the Pre-Grant Publication Division at (703) 305-8568; or  
mail to: Mail Stop Express Abandonment  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/719,254
Filing Date	November 20, 2003
First Named Inventor	Thiele et al.
Art Unit	3653
Examiner Name	Unknown
Attorney Docket Number	112701-449

Please check only one of boxes 1 or 2 below:

(If no box is checked, this paper will be treated as a request for express abandonment as of the filing date of this

1.  **Express Abandonment**

I request that the above-identified application be expressly abandoned as of the filing date of this paper.

2.  **Express Abandonment in favor of a Continuing Application**

I request that the above-identified application be expressly abandoned as of the filing date accorded the continuing application filed previously or herewith.

NOTE: A paper requesting express abandonment of an application is not effective unless and until an appropriate USPTO official recognizes and acts on the paper. See the Manual of Patent Examining Procedure (MPEP), section 711.01.

**TO AVOID PUBLICATION, PLEASE USE FORM PTO/SB/24A INSTEAD OF THIS FORM.**

I am the:  applicant.

assignee of record of the entire interest. See 37 CFR 3.71  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

attorney or agent of record. Registration Number 30,142

attorney or agent acting under 37 CFR 1.34(a) (may act under 37 CFR 1.34 only if box 2 above, stating that the application is expressly abandoned in favor of a continuing application, is checked.) Attorney or agent registration number if acting under 37 CFR 1.34.

(Attorney or agent registration number)

\_\_\_\_\_  
Signature

October 27, 2005

\_\_\_\_\_  
Date

Robert M. Barrett

312-807-4204

Typed or printed name

Telephone Number

Note: Signatures of all the inventors or assignees of record of the entire interest or their representatives(s) are required. Submit multiple forms if more than one signature is required. See below\*.

Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Express Abandonment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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